

Message Text

PAGE 01 STATE 190303
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TO AMEMBASSY NEW DELHI PRIORITY
AMCONSUL BOMBAY
INFO AMEMBASSY VIENNA PRIORITY

C O N F I D E N T I A L STATE 190303

USIAEA

E.O. 11652: GDS

TAGS: MNUC, PARM, IN

SUBJECT: FULL SCOPE SAFEGUARDS

1. IN COURSE OF NYE VISIT TO BOMBAY WE PROMISED TO PROVIDE
MESSRS VELLODI AND SETHNA WITH CLARIFICATION OF WHAT WE
MEANT BY FULL SCOPE SAFEGUARDS. ADDRESSEES ARE REQUESTED
TO PROVIDE THEM WITH THE FOLLOWING WRITTEN CLARIFICATION:

CONFIDENTIAL

PAGE 02 STATE 190303

(A) BY FULL SCOPE SAFEGUARDS WE MEAN SAFEGUARDS, UNDER ONE
OR MORE AGREEMENTS WITH THE IAEA, COVERING ALL PEACEFUL
NUCLEAR ACTIVITIES IN, UNDER THE JURISDICTION OF, OR
CARRIED OUT UNDER THE CONTROL OF THE STATE INVOLVED.

(B) AS STATED BY THE US DELEGATION ON ITS RECENT VISIT TO
BOMBAY, AN AGREEMENT SUBSTANTIALLY IN ACCORDANCE WITH
INFCIRC/153 OF THE IAEA WOULD FULFILL THIS REQUIREMENT.
WHERE THE STATE IS NOT A PARTY TO THE NPT, CERTAIN
CONFORMING CHANGES IN INFCIRC/153 WOULD BE NEEDED, SUCH AS

DELETION OF REFERENCES TO THE NPT, AND A NEW PROVISION ON DURATION WOULD HAVE TO BE NEGOTIATED, SINCE INFCIRC/153 TIES DURATION TO THE STATE'S ADHERENCE TO THE NPT.

(C) OTHER POSSIBLE WAYS OF PROVIDING FOR FULL SCOPE SAFEGUARDS WOULD BE (I) A FULL SCOPE AGREEMENT OF THE TYPE PROPOSED BY THE UK OR (II) PLACING ALL EXISTING NUCLEAR MATERIAL AND FACILITIES IN A COUNTRY UNDER IAEA SAFEGUARDS, UNDER AN AGREEMENT PURSUANT TO INFCIRC/66-(REV.2). THE LATTER WOULD PROVIDE DE FACTO FULL SCOPE SAFEGUARDS. IT WOULD NOT NECESSARILY INVOLVE A COMMITMENT TO PLACE UNDER SAFEGUARDS ALL SUBSEQUENTLY ACQUIRED NUCLEAR MATERIALS AND FACILITIES (UNLESS THE MATERIALS WERE DERIVED FROM SAFEGUARDED MATERIALS OR SUCH MATERIALS WERE USED IN THE FACILITIES). BUT IF ANY SUCH SUBSEQUENTLY ACQUIRED MATERIALS OR FACILITIES WERE NOT COVERED BY SAFEGUARDS THE STATE COULD OBVIOUSLY NO LONGER CLAIM THAT IT WAS MAINTAINING FULL SCOPE SAFEGUARDS. THE SAFEGUARDS UNDER INFCIRC/66-(REV.2) MIGHT PROVE TO BE LESS STREAMLINED THAN THOSE UNDER INFCIRC/153, WHICH IS DESIGNED TO TAKE ADVANTAGE OF THE CROSS-CHECKING POSSIBLE WHEN ALL THE FACILITIES IN A COUNTRY ARE UNDER SAFEGUARDS.

CONFIDENTIAL

PAGE 03 STATE 190303

(D) IN THE NON-PROLIFERATION BILLS NOW PENDING BEFORE THE US CONGRESS, FULL SCOPE SAFEGUARDS ARISE IN SEVERAL CONTEXTS: (I) NEW OR AMENDED AGREEMENTS FOR COOPERATION WOULD HAVE TO PROVIDE THAT, AS A CONTINUING CONDITION OF SUPPLY, FULL SCOPE SAFEGUARDS WOULD BE MAINTAINED; (II) EFFORTS ARE REQUIRED TO RENEGOTIATE EXISTING AGREEMENTS TO INCLUDE THIS REQUIREMENT; (III) THEY PROVIDE THAT EIGHTEEN MONTHS AFTER ENACTMENT, FULL SCOPE SAFEGUARDS WILL BE CONSIDERED A CRITERION FOR THE ISSUANCE OF NUCLEAR EXPORT LICENSES UNLESS THE PRESIDENT MAKES AN EXCEPTION THAT IS NOT OVERRIDDEN BY CONGRESS; (IV) THEY PROVIDE FOR THE CESSATION OF NUCLEAR COOPERATION IF THERE IS A TERMINATION OR ABROGATION OF SAFEGUARDS; AND (V) THEY PROVIDE THAT WITH RESPECT TO MATERIALS AND EQUIPMENT TRANSFERRED FROM THE UNITED STATES, OR ANY SPECIAL NUCLEAR MATERIAL USED IN OR PRODUCED THROUGH THE USE THEREOF, SAFEGUARDS WILL BE MAINTAINED SO LONG AS THE MATERIAL OR EQUIPMENT REMAINS UNDER THE JURISDICTION OR CONTROL OF THE COOPERATING PARTY, IRRESPECTIVE OF THE DURATION OF OTHER PROVISIONS IN THE AGREEMENT OR WHETHER THE AGREEMENT IS TERMINATED OR SUSPENDED FOR ANY REASON. THE LAST OF THESE REQUIREMENTS REFLECTS IAEA DOCUMENT GOV/1621, WHICH SETS STANDARDS FOR THE DURATION OF SAFEGUARDS AND THEIR APPLICABILITY TO MATERIAL PRODUCED THROUGH THE USE OF SAFEGUARDED MATERIAL OR EQUIPMENT.

2. EMBASSY IS REQUESTED TO MAKE AVAILABLE TO MEHTA AND

VELLODI THE FOLLOWING MATERIAL IN PARAS 3 THROUGH 6 BELOW
IN RESPONSE TO THEIR REQUEST FOR POINTS THAT COULD BE USED
TO REFUTE CHARGES THAT FULL SCOPE SAFEGUARDS WOULD HAMPER
THE INDIAN PROGRAM OR BE DISCRIMINATORY.

3. NON-INTERFERENCE WITH PEACEFUL NUCLEAR DEVELOPMENT.

(A) ONE OF THE OUTSTANDING FEATURES OF INFCIRC/153 (THE
IAEA MODEL FOR FULL SCOPE SAFEGUARDS PURSUANT TO THE NPT);
CONFIDENTIAL

PAGE 04 STATE 190303

IS THE DEGREE TO WHICH IT PROVIDES ASSURANCES AGAINST
INTERFERENCE WITH OR HAMPERING OF PEACEFUL NUCLEAR PROGRAMS
AND DEVELOPMENT (SOME OF THESE ASSURANCES ARE ALSO
CONTAINED IN INFCIRC/66-(REV.2). THUS SECTION 4 REQUIRES
THAT SAFEGUARDS SHALL BE IMPLEMENTED IN A MANNER DESIGNED
"TO AVOID HAMPERING THE ECONOMIC AND TECHNOLOGICAL
DEVELOPMENT OF THE STATE OR INTERNATIONAL COOPERATION IN
THE FIELD OF PEACEFUL NUCLEAR ACTIVITIES, INCLUDING
INTERNATIONAL EXCHANGE OF NUCLEAR MATERIAL" AND "TO AVOID
UNDUE INTERFERENCE IN THE STATE'S PEACEFUL NUCLEAR
ACTIVITIES, AND IN PARTICULAR IN THE OPERATION OF THE
FACILITIES." SECTION 5 PROVIDES THAT THE AGENCY SHALL
TAKE EVERY PRECAUTION TO PROTECT COMMERCIAL AND INDUSTRIAL
SECRETS AND OTHER CONFIDENTIAL INFORMATION COMING TO ITS
KNOWLEDGE IN THE IMPLEMENTATION OF THE AGREEMENT.
ARTICLE 8 PROVIDES THAT THE AGENCY SHALL REQUIRE ONLY THE
MINIMUM AMOUNT OF INFORMATION AND DATA CONSISTENT WITH
CARRYING OUT ITS RESPONSIBILITIES UNDER THE AGREEMENT, AND
THAT INFORMATION PERTAINING TO FACILITIES SHALL BE THE
MINIMUM NECESSARY FOR SAFEGUARDING NUCLEAR MATERIAL SUBJECT
TO SAFEGUARDS UNDER THE AGREEMENT. SECTION 9 PROVIDES FOR
SECURING THE CONSENT OF THE STATE TO THE DESIGNATION OF
AGENCY INSPECTORS TO THAT STATE; SECTION 31 PROVIDES THAT
THE AGENCY SHALL MAKE FULL USE OF THE STATE'S SYSTEM OF
ACCOUNTING AND CONTROL AND SHALL AVOID UNNECESSARY
DUPLICATION OF SUCH ACTIVITIES. SECTION 76 (D) PROVIDES
THAT IN THE EVENT OF THE STATE CONCLUDING THAT ANY UNUSUAL
CIRCUMSTANCES REQUIRE EXTENDED LIMITATIONS ON ACCESS BY
THE AGENCY, THE STATE AND THE AGENCY SHALL PROMPTLY MAKE
ARRANGEMENTS WITH A VIEW TO ENABLING THE AGENCY TO DIS-
CHARGE ITS SAFEGUARDS RESPONSIBILITIES IN THE LIGHT OF
THESE LIMITATIONS. AND SECTION 78 PROVIDES THAT THE
NUMBER, INTENSITY, DURATION AND TIMING OF ROUTINE
CONFIDENTIAL

PAGE 05 STATE 190303

INSPECTIONS SHALL BE KEPT TO THE MINIMUM CONSISTENT WITH
THE EFFECTIVE IMPLEMENTATION OF THE SAFEGUARDS PROCEDURES
SET FORTH IN THE AGREEMENT.

(B) MATERIALS INDICATING THE NATURE OF THE SUBSIDIARY ARRANGEMENTS CALLED FOR BY INFCIRC/153 AND INFCIRC/66-(REV.2), AND THEIR CONSISTENCY WITH THE FOREGOING PROVISIONS ARE BEING FORWARDED FROM WASHINGTON AND WILL BE MADE AVAILABLE UPON RECEIPT.

(C) THE EXPERIENCE OF STATES WHO HAVE ACCEPTED FULL SCOPE SAFEGUARDS SHOWS THAT THEY HAVE NOT IN FACT BEEN BURDENSOME OR HAMPERED PEACEFUL NUCLEAR ACTIVITIES. THUS,

(I) THE FOLLOWING CONCLUSION WAS REACHED IN THE FINAL DOCUMENT OF THE NPT REVIEW CONFERENCE, HELD IN MAY, 1975. (THE FINAL DOCUMENT WAS ADOPTED BY CONSENSUS OF THE 57 PARTIES TO THE TREATY PRESENT AND VOTING, WHICH INCLUDED VIRTUALLY EVERY PARTY THAT HAD ANY SIGNIFICANT NUCLEAR ACTIVITIES):

"THE CONFERENCE NOTES THAT THE VERIFICATION ACTIVITIES OF THE IAEA UNDER ARTICLE III OF THE TREATY RESPECT THE SOVEREIGN RIGHTS OF STATES AND DO NOT HAMPER THE ECONOMIC, SCIENTIFIC OR TECHNOLOGICAL DEVELOPMENT OF THE PARTIES TO THE TREATY OR INTERNATIONAL COOPERATION IN PEACEFUL ACTIVITIES."

(II) THE CANADIAN REPRESENTATIVE STATED AT THAT CONFERENCE THAT:

"IAEA'S VERIFICATION OF THE SAFEGUARDS COMMITMENTS OF THE NON-NUCLEAR WEAPON STATES PARTIES TO THE TREATY HAD BEEN PERHAPS THE MOST SUCCESSFUL ASPECT OF THE TREATY. CANADA HAD BEEN THE FIRST COUNTRY WITH A LARGE NUCLEAR INDUSTRY TO ACCEPT THE TREATY SAFEGUARDS INSPECTION OF CONFIDENTIAL

PAGE 06 STATE 190303

ALL ITS NUCLEAR FACILITIES, AND ANY INITIAL UNEASINESS IT MIGHT HAVE FELT ABOUT THE POSSIBLE INTRUSIVENESS OR ECONOMIC BURDEN HAD DISAPPEARED. THERE WAS NO EVIDENCE THAT THE APPLICATION OF SAFEGUARDS HAD IN ANY APPRECIABLE WAY HINDERED THE DEVELOPMENT OF NUCLEAR TECHNOLOGY OR THE OPERATION OF NUCLEAR POWER FACILITIES IN CANADA, NOR HAD THEY PROVED IN ANY WAY INCOMPATIBLE WITH CANADIAN SOVEREIGNTY." (SUMMARY RECORDS, P. 57)

(III) REPRESENTATIVES OF A NUMBER OF OTHER STATES MADE STATEMENTS TO THE SAME EFFECT. JAPAN, WHICH HAD HAD THE LONGEST AND MOST EXTENSIVE EXPERIENCE IN BEING SAFEGUARDED PRIOR TO THE NPT, SUBSEQUENTLY JOINED THAT TREATY AND AGREED TO ACCEPT FULL SCOPE SAFEGUARDS.

(D) AN ADVANTAGE OF FULL SCOPE SAFEGUARDS IS THAT THEIR ACCEPTANCE BY AN IMPORTING STATE WOULD ELIMINATE A NUMBER OF PROBLEMS OTHERWISE FACED IN IMPORTING NUCLEAR RELATED

MATERIALS AND EQUIPMENT. FOR EXAMPLE, WHERE THE IMPORTED ITEMS ARE OF A TYPE THAT SUPPLIER COUNTRIES REFUSE TO EXPORT UNLESS THE FACILITY IN WHICH THEY ARE USED IS SAFE-GUARDED, THIS CONDITION WOULD OBVIOUSLY BE MET AND THE NEED FOR ASSURANCES ON WHERE THE ITEM WOULD BE USED ELIMINATED. LIKEWISE, OUR BILATERAL PROBLEMS OVER THE US ORIGIN HEAVY WATER SUPPLIED FOR THE CIRUS AND RAJASTHAN REACTORS WOULD BE ELIMINATED.

4. NON-DISCRIMINATORY NATURE OF FULL SCOPE SAFEGUARDS.

(A) 102 STATES HAVE ALREADY AGREED TO ACCEPT FULL SCOPE SAFEGUARDS (SEE APPENDED LIST). THESE INCLUDE THE FOLLOWING WORLD LEADERS IN PEACEFUL NUCLEAR DEVELOPMENT: JAPAN, THE FRG, ITALY, BELGIUM, THE NETHERLANDS, CANADA, CONFIDENTIAL

PAGE 07 STATE 190303

SWEDEN AND SWITZERLAND, MOST OF WHICH HAVE MAJOR NUCLEAR RESEARCH CENTERS.

(B) THE UNITED STATES AND THE UNITED KINGDOM HAVE NEGOTIATED AGREEMENTS WITH THE IAEA PERMITTING THE AGENCY TO APPLY ITS SAFEGUARDS TO FACILITIES IN THOSE COUNTRIES. IN THE CASE OF THE UNITED STATES, THIS WAS IN FULFILLMENT OF AN OFFER MADE BY PRESIDENT JOHNSON ON DECEMBER 2, 1967, WHEN HE SAID "WE DO NOT BELIEVE THAT THE SAFEGUARDS WE PROPOSE IN (THE NPT) WILL INTERFERE WITH THE PEACEFUL ACTIVITIES OF ANY COUNTRY. AND I WANT TO MAKE CLEAR, VERY CLEAR, TO ALL THE WORLD, THAT WE IN THE UNITED STATES ARE NOT ASKING ANY COUNTRY TO ACCEPT SAFEGUARDS THAT WE ARE UNWILLING TO ACCEPT OURSELVES." A SUMMARY DESCRIPTION OF FACILITIES COVERED BY THE US OFFER IS ATTACHED (SEE PARA 6 BELOW).

5. THE 102 COUNTRIES THAT HAVE AGREED TO ACCEPT FULL SCOPE SAFEGUARDS: AFGHANISTAN, AUSTRALIA, AUSTRIA, THE BAHAMAS, BARBADOS, BELGIUM, BENIN, BOLIVIA, BOTSWANA, BULGARIA, BURUNDI, CAMBODIA, CAMEROON, CANADA, CENTRAL AFRICAN REPUBLIC, CHAD, REPUBLIC OF CHINA, COLOMBIA, COSTA RICA, CYPRUS, CZECHOSLOVAKIA, DENMARK, DOMINICAN REPUBLIC, ECUADOR, EL SALVADOR, ETHIOPIA, FIJI, FINLAND, GABON, THE GAMBIA, GERMAN DEMOCRATIC REPUBLIC, FEDERAL REPUBLIC OF GERMANY, GHANA, GREECE, GRENADA, GUATEMALA, HAITI, HOLY SEE, HONDURAS, HUNGARY, ICELAND, IRAN, IRAQ, IRELAND, ITALY, IVORY COAST, JAMAICA, JAPAN, JORDAN, KENYA, REPUBLIC OF KOREA, LAOS, LEBANON, LESOTHO, LIBERIA, LIBYA, LUXEMBOURG, MADAGASCAR, MALAYSIA, MALDIVES, MALTA, MALI, MAURITIUS, MEXICO, MONGOLIA, MOROCCO, NEPAL, NETHERLANDS, NEW ZEALAND, NICARAGUA, NIGERIA, NORWAY, PANAMA, PARAGUAY, PERU, PHILIPPINES, POLAND, ROMANIA, RWANDA, SAN MARINO, SENEGAL, SIERRA LEONE, SINGAPORE, SOMALIA, SUDAN, SURINAM, SWAZILAND SWEDEN, SWITZERLAND, SYRIAN ARAB REPUBLIC, THAILAND, TOGO, TONGA, TRINIDAD

AND TOBAGO, TUNISIA,
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PAGE 08 STATE 190303

UPPER VOLTA, URUGUAY, VENEZUELA, VIETNAM, WESTERN SOMOA,
YUGOSLAVIA, ZAIRE.

6. SUMMARY DESCRIPTION OF FACILITIES COVERED BY US
SAFEGUARDS OFFER. (NOTE: SINCE THE LIST ON WHICH THIS
DATA IS BASED HAS NOT BEEN FORMALLY TRANSMITTED, THIS
INFORMATION SHOULD BE TREATED CONFIDENTIALLY.)

US FACILITIES TO BE COVERED BY THE US/IAEA SAFEGUARDS
AGREEMENT INCLUDE IN THE LICENSED SECTOR 155 NUCLEAR
POWER REACTORS (63 OPERATING, 6 NOT YET OPERATIONAL BUT
AUTHORIZED TO POSSESS FUEL, AND 69 UNDER CONSTRUCTION,
17 WITH LIMITED WORK AUTHORIZATION, 46 RESEARCH AND TEST
REACTORS AT UNIVERSITIES AND COMMERCIAL INSTALLATIONS,
12 FUEL FABRICATION AND PROCESSING PLANTS, 2 REPROCESSING
PLANTS (IF OPERATIONAL), 5 RESEARCH AND DEVELOPMENT
FACILITIES, AND 23 OTHER FACILITIES.

IN THE LICENSE-EXEMPT SECTOR, THE LIST INCLUDES AMES
LABORATORY, ARGONNE NATIONAL LABORATORY (5000 PEOPLE,
\$500 MILLION CAPITAL INVESTMENT), BROOKHAVEN NATIONAL
LABORATORY (3000 PEOPLE, \$300 MILLION), HANFORD ENGINEERING
LABORATORY (2000 PEOPLE, \$500 MILLION), IDAHO NATIONAL
ENGINEERING LABORATORY, OAK RIDGE NATIONAL LABORATORY
(5000 PEOPLE, \$400 MILLION), THE SANTA SUSANNA FACILITY
OF ATOMICS INTERNATIONAL; THE SHIPPINGPORT ATOMIC POWER
STATION; THE FAST FLUX TEST FACILITY AT HANFORD, AND THE
CLINCH RIVER BREEDER REACTOR (IF CONSTRUCTED).

7. WE ARE ALSO POUCHING FOR DELIVERY TO SETHNA (AND SUCH
OTHER USE OF EMBASSY MAY FIND ADVISABLE) UNCLASSIFIED
MATERIALS MAKING CLEAR THAT REACTOR GRADE PLUTONIUM IS OF
CONCERN FROM A PROLIFERATION POINT OF VIEW. CHRISTOPHER
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PAGE 09 STATE 190303

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